

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

JAMES D. GADD, M.D.

Holder of License No. 8696
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-03-0906

**CONSENT AGREEMENT FOR
LICENSE REACTIVATION AND
PROBATION**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and James D. Gadd, M.D. ("Respondent"), the parties agreed to the following disposition of this matter at the Board's public meeting on November 12, 2003.

1. Respondent acknowledges that he has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order. Respondent acknowledges that he understands he has the right to consult with legal counsel regarding this matter and has done so or chooses not to do so.

2. Respondent understands that by entering into this Consent Agreement for the issuance of the foregoing Order, he voluntarily relinquishes any rights to a hearing or judicial review in State or federal court on the matters alleged, or to challenge this Consent Agreement and the Order in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Order.

3. Respondent acknowledges and understands that this Consent Agreement and the Order is not effective until approved by the Board and signed by its Executive Director.

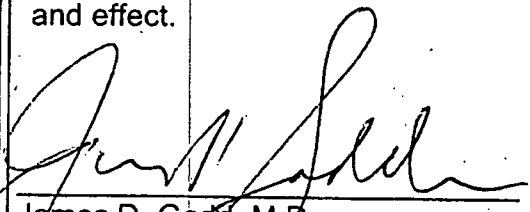
4. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended

1 or made for any other use, such as in the context of another state or federal government
2 regulatory agency proceeding, civil or criminal court proceeding, in this State or any other
3 state or federal court.

4 5. Respondent acknowledges and agrees that, although the Consent
5 Agreement has not yet been accepted by the Board and issued by the Executive Director,
6 Respondent may not revoke his acceptance of the Consent Agreement and Order.
7 Respondent may not make any modifications to the document. Any modifications to this
8 original document are ineffective and void unless mutually approved by the parties.

9 6. Respondent further understands that this Consent Agreement and Order,
10 once approved and signed, is a public record that may be publicly disseminated as a
11 formal action of the Board.

12 7. If any part of the Consent Agreement and Order is later declared void or
13 otherwise unenforceable, the remainder of the Order in its entirety shall remain in force
14 and effect.

15
16 
17 James D. Gads, M.D.
18

Dated: 11/3/03

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 8696 for the practice of allopathic medicine in the State of Arizona.

3. The Board had placed Respondent on probation for substance abuse in an Order that expired in September 1978. On July 24, 2003, Respondent informed the Board's contracted addiction medicine specialist ("Specialist") that he had relapsed with the use of Fentanyl, Lortab and alcohol. Respondent informed Specialist that he was at the Betty Ford Center ("Betty Ford") for inpatient treatment. On August 1, 2003, Respondent signed a Request for Inactivation with Cause because his previous Board Order for substance abuse terminated in 1978 and he had relapsed. A.R.S. § 32-1451(F). The Board initiated case number MD-03-0906 after Respondent requested that his license be reactivated.

4. Subsequent to his license being inactivated Respondent successfully completed treatment at Betty Ford. Betty Ford extensively evaluated Respondent's entire addiction history relative to his returning to the practice of anesthesia. Betty Ford and Specialist concur in their support of Respondent's returning to the practice of anesthesia because his initial treatment in the 1970's did not involve the use of operating room medications, including Fentanyl; that his treatment in the 1970's was not adequate chemical dependency treatment he has not had any operating room events relating to drug abuse; he has a solid, long-term practice with strong professional support from his colleagues and the hospital; and he will be taking Naltrexone and will be urine tested for Fentanyl.

5. Specialist recommends that Respondent's license be reactivated with the following requirements: participation in the Board's Monitored Aftercare Program ("MAP"); administration of Naltrexone for a period as determined by the Medical Director of MAP; and urine testing specifically for Fentanyl.

CONCLUSIONS OF LAW

1. The Arizona Medical Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The Board has received substantial evidence supporting the Findings of Fact described above and said findings require the Board to either refer the matter for formal hearing to revoke Respondent's license or reactive Respondent's license and place Respondent on probation for 5 years with restrictions necessary to assure public safety. A.R.S. § 32-1452(F).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED that:

1. Respondent's license is reactivated upon payment of the renewal fee.

2. Respondent is placed on Probation for five years with the following terms and conditions:

a. Respondent shall take Naltrexone, for a period as determined by the Medical Director of the Board's Monitored Aftercare Program and as prescribed by his primary care physician.

b. Respondent's urine screens shall screen for Fentanyl, in addition to the usual substances screened for.

c. 1. **Participation.** Respondent shall promptly enroll in and participate in the Monitored Aftercare Program ("MAP") for the treatment and rehabilitation

1 of physicians who are impaired by alcohol or drug abuse. Respondent shall remain in
2 MAP for five years from the effective date of this Consent Agreement. Respondent's
3 participation in MAP may be unilaterally terminated with or without cause at the Board's
4 discretion at any time after the issuance of this Consent Agreement.

5 2. **Group Therapy.** Respondent shall attend MAP's group therapy
6 sessions one time per week for the duration of this Consent Agreement, unless excused
7 by the MAP group therapist for good cause such as illness or vacation. Respondent shall
8 instruct the MAP group therapist to release to the Board, upon its request, all records
9 relating to his treatment, and to submit monthly reports to the Board regarding attendance
10 and progress. The reports shall be submitted on or before the 10th day of each month.

11 3. **12 Step or Self-Help Group Meetings.** Respondent shall attend
12 ninety 12-step meetings or other self-help group meetings appropriate for substance
13 abuse and approved by the Board, for a period of ninety days beginning not later than
14 either (a) the first day following his discharge from chemical dependency treatment or (b)
15 the date of this Consent Agreement.

16 4. Following completion of the ninety meetings in ninety days,
17 Respondent shall participate in a 12-step recovery program or other self-help program
18 appropriate for substance abuse as recommended by the MAP group therapist and
19 approved by the Board. Respondent shall attend a minimum of three 12-step or other self-
20 help program meetings per week.

21 5. **Board-Approved Primary Care Physician.** Respondent shall
22 promptly obtain a primary care physician and shall submit the name of the physician to
23 Board Staff in writing for approval. The Board-approved primary care physician ("PCP")
24 shall be in charge of providing and coordinating Respondent's medical care and treatment.
25 Except in an *Emergency*, Respondent shall obtain his medical care and treatment only

1 from the PCP and from health care providers to whom the PCP refers Respondent from
2 time to time. Respondent shall request that the PCP document all referrals in the medical
3 record. Respondent shall promptly inform the PCP of his rehabilitation efforts and provide
4 a copy of this Consent Agreement to that physician. Respondent shall also inform all
5 other health care providers who provide medical care or treatment that he is participating
6 in the Board's rehabilitation program.

7 **6. Medication.** Except in an *Emergency*, Respondent shall take no
8 *Medication*, unless his PCP or other health care provider to whom the PCP makes a
9 referral has prescribed the *Medication*. Respondent shall not self-prescribe any
10 *Medication*.

11 **7.** If a controlled substance is prescribed, dispensed, or is administered
12 to Respondent by any person other than PCP, Respondent shall notify the PCP in writing
13 within 48 hours. The notification shall contain all information required for the medication
14 log entry specified in paragraph 8. Respondent shall request that the notification be made
15 a part of the medical record. This paragraph does not authorize Respondent to take any
16 *Medication* other than in accordance with paragraph 6.

17 **8. Medication Log.** Respondent shall maintain a current legible log of
18 all *Medication* taken by or administered to him, and shall make the log available to the
19 Board and its Staff upon request. For *Medication* (other than controlled substances) taken
20 on an on-going basis, Respondent may comply with this paragraph by logging the first and
21 last administration of the *Medication* and all changes in dosage or frequency. The log, at a
22 minimum, shall include the following:

- 23 a. Name and dosage of *Medication* taken or administered;
- 24 b. Date taken or administered;
- 25 c. Name of prescribing or administering physician;

1 d. Reason *Medication* was prescribed or administered.

2 This paragraph does not authorize Respondent to take any *Medication* other than in
3 accordance with paragraph 6.

4 9. **No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol
5 or any food or other substance containing poppy seeds or alcohol.

6 10. **Biological Fluid Collection.** During all times that Respondent is
7 physically present in the State of Arizona and such other times as Board Staff may direct,
8 Respondent shall promptly comply with requests from Board Staff, the MAP group
9 therapist, or the MAP director to submit to witnessed biological fluid collection. If
10 Respondent is directed to contact an automated telephone message system to determine
11 when to provide a specimen, he shall do so within the hours specified by Board Staff. For
12 the purposes of this paragraph, in the case of an in-person request, "promptly comply"
13 means "immediately". In the case of a telephonic request, "promptly comply" means that,
14 except for good cause shown, Respondent shall appear and submit to specimen collection
15 not later than two hours after telephonic notice to appear is given. The Board in its sole
16 discretion shall determine good cause.

17 11. Respondent shall provide Board Staff in writing with one telephone
18 number that shall be used to contact him on a 24 hour per day/seven day per week basis
19 to submit to biological fluid collection. For the purposes of this section, telephonic notice
20 shall be deemed given at the time a message to appear is left at the contact telephone
21 number provided by Respondent. Respondent authorizes any person or organization
22 conducting tests on the collected samples to provide testing results to the Board and the
23 MAP director.

24 12. Respondent shall cooperate with collection site personnel regarding
25 biological fluid collection. Repeated complaints from collection site personnel regarding

Respondent's lack of cooperation regarding collection may be grounds for termination from the program.

13. **Payment for Services.** Respondent shall pay for all costs, including personnel and contractor costs, associated with participating in the Monitored Aftercare Program at time service is rendered, or within 30 days of each invoice sent to him.

14. **Examination.** Respondent shall submit to mental, physical, and medical competency examinations at such times and under such conditions as directed by the Board to assist the Board in monitoring his ability to safely perform as a physician and his compliance with the terms of this Consent Agreement.

15. **Treatment.** Respondent shall submit to all medical, substance abuse, and mental health care and treatment ordered by the Board, or recommended by the MAP director.

16. **Obey All Laws.** Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in the State of Arizona.

17. **Interviews.** Respondent shall appear in person before the Board and its Staff and committees for interviews upon request, upon reasonable notice.

18. **Address and Phone Changes, Notice.** Respondent shall immediately notify the Board in writing of any change in office or home addresses and telephone numbers. Respondent shall provide Board Staff at least three business days advance written notice of any plans to be away from office or home when such absence would prohibit Respondent from responding to an order to provide a biological fluid specimen or from responding to communications from the Board. The notice shall state the reason for the intended absence from home or office, and shall provide a telephone number that may be used to contact Respondent.

1 **19. Relapse, Violation.** In the case of chemical dependency relapse by
2 Respondent or Respondent's use of drugs or alcohol in violation of the Order,
3 Respondent's license shall be **REVOKED**. Respondent agrees to waive formal hearing on
4 the revocation. In the alternative, Respondent may **SURRENDER HIS LICENSE** if he
5 agrees in writing to being impaired by alcohol or drug abuse. A.R.S. § 32-1452(G).

6 **20. Notice Requirements.**

7 **(A)** Respondent shall immediately provide a copy of this Consent Agreement
8 to all employers and all hospitals and free standing surgery centers a which he currently
9 has privileges. Within 30 days of the date of this Consent Agreement, Respondent shall
10 provide the Board with a signed statement that he has complied with this notification
11 requirement. Upon any change in employer or upon the granting of privileges at additional
12 hospitals and free standing surgery centers, Respondent shall provide the employer,
13 hospital or free standing surgery center with a copy of this Consent Agreement. Within 30
14 days of a change in employer or upon the granting of privileges at additional hospitals and
15 free standing surgery centers, Respondent shall provide the Board with a signed
16 statement that he has complied with this notification requirement.

17 **(B)** Respondent is further required to notify, in writing, all employers,
18 hospitals and free standing surgery centers at which Respondent currently has or in the
19 future gains employment or privileges, of a chemical dependency relapse, use of drugs or
20 alcohol in violation of this Consent Agreement and/or entry into a treatment program.
21 Within seven days of any of these events Respondent shall provide the Board written
22 confirmation that he has complied with this notification requirement.

23 **(C)** Respondent shall immediately submit to the Board under penalty of
24 perjury, on a form provided by the Board, the name(s) and address(es) of all employers
25 and all hospitals and free standing surgery centers at which he currently holds privileges to

practice. Respondent is further required to, under penalty of perjury, on a form provided by the Board, immediately notify the Board of any changes in employment and of any hospitals and free standing surgery centers at which he gains privileges after the effective date of this Consent Agreement.

21. Public Record. This Consent Agreement is a public record.

22. **Out-of State.** In the event Respondent resides or practices as a physician in a state other than Arizona, he shall participate in the rehabilitation program sponsored by that state's medical licensing authority or medical society. Respondent shall cause the other state's program to provide written reports to the Board regarding his attendance, participation, and monitoring. The reports shall be due on or before the 15th day of March and September of each year, until the Board terminates this requirement in writing.

23. This Consent Agreement supersedes all previous consent agreements and stipulations between the Board and Respondent.

24. The Board retains jurisdiction and may initiate new action based upon any violation of this Consent Agreement.

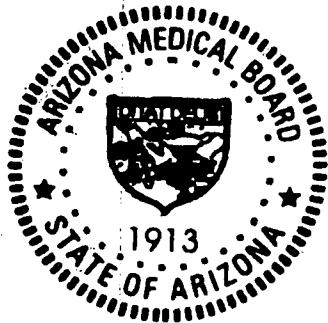
DEFINITIONS

"Medication" means "prescription-only drug, controlled substance, and over-the-counter preparation, other than plain aspirin and plain acetaminophen."

"Emergency" means "a serious accident or sudden illness that, if not treated immediately, may result in a long-term medical problem or loss of life."

This Order is the final disposition of case number MD-03-0906.

1 DATED this 20th day of November, 2003.



ARIZONA MEDICAL BOARD

By *Barry Cassidy*
BARRY A. CASSIDY, Ph.D., PA-C
Executive Director

8 ORIGINAL of the foregoing filed this
9 20th day of November, 2003 with:

10 The Arizona Medical Board
11 9545 East Doubletree Ranch Road
12 Scottsdale, Arizona 85258

13 Executed copy of the foregoing
14 mailed by U.S. Certified Mail this
15 20th day of November, 2003, to:

16 James D. Gadd, M.D.
17 (address of record)

18
19
20
21
22
23
24
25